

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

JOHN W WIRTH  
TX-1335206-R

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DOCKETED COMPLAINT NO. 10-122

**AGREED FINAL ORDER**

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2010, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of John W. Wirth (Respondent).

In order to conclude this matter John W. Wirth neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

**FINDINGS OF FACT**

1. Respondent, John W. Wirth, is a state certified residential real estate appraiser who currently holds and held certification number TX-1335206-R during all times material to the above-noted complaint case.
2. Respondent appraised 24858 Fairway Springs, San Antonio, TX ("the property") on or about April 10<sup>th</sup>, 2009.
3. On or about November 13<sup>th</sup>, 2009, Paul J. Rowland, Jr., filed a complaint with the Board based on allegations that the Respondent had conducted an appraisal on the property improperly.
4. On or about December 29<sup>th</sup>, 2009 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103, notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent's response to this complaint was received.
5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property:
  - a) Respondent failed to comply with the Scope of Work Rule;

- b) Respondent failed to use an appropriate method or technique to develop an opinion of site value, failed to collect, verify, analyze and reconcile the cost new of improvements and did not employ recognized methods and techniques in the cost approach;.
- c) Respondent signed a certification that contained misrepresentations about his scope of work; and,
- d) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.

### CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.
2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Scope of Work Rule; USPAP Standards: 1-2(h) & 2-2(b)(vii); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 2-3 & 2-2(b)(xi).
3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- b. Pay to the Board an administrative penalty of \$200.00; and
- c. Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be timely completed within twenty days of the date this Agreed Final Order is approved.

**ALL CLASSES** required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-

class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for licensure or certification.

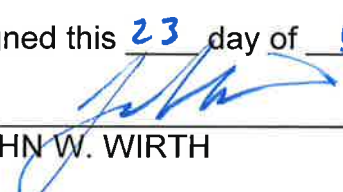
Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's license or certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

**ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.** Respondent shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's license or certification is suspended on such a basis, the suspension shall remain in effect until such time as Respondent complies with all the terms of this Agreed Final Order.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 23 day of December, 2010.

  
JOHN W. WIRTH

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 23<sup>rd</sup> day of December, 2010, by JOHN W. WIRTH, to certify which, witness my hand and official seal.

  
Notary Public Signature


Susan D. B. Muñiz  
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 4<sup>th</sup> day of February, 2011.

  
Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 18<sup>th</sup> day of February, 2011.

  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 18<sup>th</sup> day of February, 2011.

  
~~James B. Ratliff~~, Chairperson Luis Dela Garza  
Texas Appraiser Licensing and Certification Board